UNITED NATIONS

CERD

International Convention on the Elimination of all Forms of Racial Discrimination

Distr.
GENERAL

CERD/C/SR.1505
15 March 2002

Original: ENGLISH

COMMITTEE ON THE ELIMINATION OF RACIAL DISCRIMINATION

Sixtieth session

SUMMARY RECORD OF THE 1505th MEETING

Held at the Palais des Nations, Geneva,
on Monday, 11 March 2002, at 3 p.m.

Chairman: Mr. AMIR
(Vice-Chairman)

later: Mr. DIACONU
(Chairman)

CONTENTS

CONSIDERATION OF REPORTS, COMMENTS AND INFORMATION SUBMITTED BY STATES PARTIES UNDER ARTICLE 9 OF THE CONVENTION (continued)

Initial, second, third and fourth reports of the Republic of Moldova

Review of the implementation of the Convention in States parties whose reports are excessively overdue

Papua-New Guinea

Draft concluding observations concerning the initial report of Lithuania

This record is subject to correction.

Corrections should be submitted in one of the working languages. They should be set forth in a memorandum and also incorporated in a copy of the record. They should be sent within one week of the date of this document to the Official Records Editing Section, room E.4108, Palais des Nations, Geneva.

Any corrections to the records of the public meetings of the Committee at this session will be consolidated in a single corrigendum, to be issued shortly after the end of the session.

GE.02-40739 (E) 140302 150302

In the absence of Mr. Diaconu, Mr. Amir, Vice-Chairman, took the Chair.

The meeting was called to order at 3.05 p.m.

CONSIDERATION OF REPORTS, COMMENTS AND INFORMATION SUBMITTED BY STATES PARTIES UNDER ARTICLE 9 OF THE CONVENTION (agenda item 6) (continued)

Initial, second, third and fourth periodic reports of the Republic of Moldova (CERD/C/372/Add.2; HRI/CORE/1/Add.114)

1. At the invitation of the Chairman, the members of the delegation of the Republic of Moldova took places at the Committee table.

2. Mr. SLONOVSCHI (Republic of Moldova) said that since gaining independence in 1991 his country had actively engaged in affirming the importance of human rights and in adopting related standards. The Republic of Moldova had become party to 27 international human rights instruments, including the main conventions and those treaties affording protection to ethnic minorities. It had also extensively reformed the national legal system. A new Constitution had been adopted in the 1990s, with an entire chapter devoted to human rights. It had been largely inspired by the international charter of human rights and the European Convention on Human Rights (ECHR).

3. The Constitution stated that protection of the individual was a basic duty of the State. It established the principle of equality of all citizens, irrespective of race, nationality, origin, ethnicity, language, religion, sex, opinion, political affiliation, wealth or social origin. Effective protection was provided by the Code on Civil Procedure, and the Penal Code set out sanctions for the instigation of national or racial hatred, and contained provisions establishing aggravating circumstances when sentences were handed down for offences committed with racist intent. International treaties took precedence over national law. The country had amended its national laws and modified its legal system to bring them into line with international instruments, in particular ECHR. Recent amendments had been passed relating to dual nationality, and a Refugees Act had been passed after the country had acceded to the Geneva Convention relating to the Status of Refugees.

4. Moldovan society was multi-ethnic, with significant Ukrainian and Russian minorities and groups of Gagauzi, Bulgarians, Belarusians, Roma, Germans and Poles. In the past 10 years a system of standards had been adopted to ensure the rights of national minorities, especially in respect of language and culture. The Republic of Moldova, a State party to the Framework Convention for the Protection of National Minorities, had recently adopted a law on national minorities and the status of their organizations, which ensured the right of national minorities to receive education in Moldovan and Russian and in their mother tongues. In certain areas, official communications were issued in the local languages, and radio and television programmes were broadcast in minority languages. Cultural groups from the country's minorities were particularly active and travelled throughout the Republic.

5. The Government had made efforts to improve understanding and social tolerance, cultural pluralism and non-discrimination, for example by organizing specific events. It had established a State Service for Religious Issues to govern relations with the various religious communities.

6. The situation in Transnistria, as described in the report, was a subject of concern. The Moldovan Government hoped that the resolution of the conflict in the region and the determination of its legal status within the borders of an indivisible State would alleviate the problems encountered by ethnic groups there.

7. The legal framework in the Republic of Moldova had developed sufficiently to ensure that racial, ethnic, linguistic and religious discrimination would not be tolerated. The problems that had emerged were attributable not to a lack of legal measures, but rather to practical problems, such as financial austerity, precarious socio-economic conditions or other factors in the part of the country that was not under the control of the constitutional authorities.

8. Mr. Diaconu took the Chair.

9. Mr. PILLAI (Country Rapporteur) said that while the report provided a great deal of information, it was not structured in a manner that facilitated an article-by-article consideration of the implementation of the Convention. The Committee would appreciate it if future reports followed its guidelines more closely.

10. The core document did not present data on the ethnic composition of the population. Such information was crucial to the success of the Committee's work in considering the situation in the State party. While the document indicated a decline in the total population between 1990 and 1998, the Committee would be interested to find out about the breakdown of migratory and demographic patterns, by ethnic group. It would be useful, for example, if the State party explained to what extent the conflict in the eastern part of the country had been responsible for emigration. If a demographic trend relating to racial discrimination did indeed exist, how would the Government address such an issue? The State party had neglected to provide information on school drop-out rates or on infant mortality, and how such problems affected the various ethnic groups.

11. The Republic of Moldova had attained sovereignty and independence respectively in 1990 and 1991, and in 1994 had adopted a Constitution providing for a multi-party, representative Government. Since independence it had faced problems arising out of the separatist actions of forces in the eastern part of the country, which had had a serious impact. One non-governmental organization (NGO) had described the State as being "fractured along ethnic lines". He expressed the hope that the current mediation efforts aimed at resolving the conflict in Transnistria would be successful, and that future reports would be able to address the situation throughout the territory of the State party.

12. According to the 1999 annual report of the United Nations Development Programme (UNDP), Moldova was one of the poorest countries of Europe, with a per capita income of under US$ 500 and half the population living on less than a dollar a day. The poor economic situation was conducive to marginalization and discrimination. However,

difficult economic conditions could not justify detrimental attitudes and the violation of laws, and the authorities were obliged to abide by the minimum requirements provided under international law.

13. Turning to positive aspects of the situation, he said that the report highlighted the general acceptance of the multi-ethnic character of the country. The Government had paid due attention to the importance of harmonizing national law with international treaties and human rights principles, amending the national legislation accordingly, and had recognized the role of civil society in promoting tolerance among ethnic groups. The State had developed mechanisms to prevent inter-ethnic conflicts and, in accordance with the Constitution, had undertaken to advocate tolerance and educate the public in human rights. The Government's social and economic development plans called for equal development and equal opportunities for the various ethnic groups and regions.

14. In its report on implementation of the Framework Convention for the Protection of National Minorities, the Government had reportedly referred to "compact national minorities", "compact-dispersed national minorities" and "dispersed national minorities". How were such terms defined?

15. In respect of article 2, the report referred to a number of presidential decrees to support the development of Russian, Jewish and Bulgarian cultures. Did the Government foresee any measures in support of other ethnic groups, such as the Roma? The Government claimed that it had amended 22 laws, including the Constitution and the principal legal codes, as a result of accession to ECHR. Had it undertaken any similar amendments in respect of other international human rights instruments, such as the International Convention on the Elimination of All Forms of Racial Discrimination? Did the Constitutional Court play a role in the enforcement of article 8 of the Constitution, which called for the revision of national legislation to bring it into line with international obligations under human rights treaties? Could the Convention be invoked directly before Moldovan courts, and if so, could the delegation inform the Committee of any cases which had already arisen?

16. The Committee had drawn the attention of States to the importance of training law enforcement officials to respect human dignity and human rights. He called upon the delegation to inform the Committee of measures taken in that respect, if not at the present session, then at least in the State party's next report.

17. Turning to article 3, he drew attention to the Committee's comment contained in General Recommendation XIX to the effect that partial segregation could sometimes arise as an unintended by-product of the actions of private persons. That appeared to be particularly relevant to the privatization of State farms in the Republic of Moldova and the disadvantaged situation in which it left certain groups.

18. While a number of legislative enactments fulfilled some of the requirements of article 4, more were required, especially in respect of paragraphs (a) and (b). How was the provision forbidding instigation to religious or racial hatred enforced in practice? While the report

provided an elaborate description of the constitutional and legal provisions to give effect to article 5 of the Convention, it offered no details on how such provisions were enforced. It would be useful if the delegation could address that issue, in particular because the Committee had received reports of hindrances to the exercise of such rights. He referred to specific cases of allegations of torture or police abuse committed against Roma and Arab individuals. Those cases had allegedly not been investigated by the State authorities.

19. He expressed concern about the big increase in poverty among Roma who had formerly worked on collective farms, but who had not been allocated plots of land after the farms had been privatized. The educational priorities described in paragraph 87 of the report were laudable, but how did the Government ensure that all sectors of society had equal access to education? In that context, he asked whether there was any special reason for the sharp drop in the number of Roma students in higher education between 1998 and the year 2000. Moreover the Committee wished to know if the Roma were recognized as a national minority. The head of the delegation had stated that they constituted 0.3 per cent of the population, whereas the Moldovan Helsinki Committee for Human Rights put their numbers at 100,000 to 200,000 and asserted that they not only faced handicaps in education, but also suffered from a lack of civic amenities and an absence of public concern for their welfare. In that connection, he reminded the delegation of the contents of paragraphs 1 and 3 of General Recommendation XXIV. Furthermore, after the thematic discussion of the Roma in 2000, the Committee had issued General Recommendation XXVII calling upon States to adopt a number of measures to ameliorate the condition of the Roma and the Committee therefore looked forward to hearing how the State party intended to address the issue of discrimination against Roma.

20. The periodic report contained scant information on the implementation of article 6 of the Convention. It had to be emphasized that the article in question covered everyone under the State party's jurisdiction and, mindful of that fact, he wished to call the delegation's attention to General Recommendation XXVI.

21. With regard to article 7 of the Convention, he observed that a substantial part of the State party's report was devoted to culture and education, which were of signal importance in shaping values and promoting racial tolerance. It was therefore vital to have facts and figures on the educational system, on the activities of associations which set out to develop national culture and traditions and on the role of the State and mass media in combating racial prejudice. In view of the educational objectives outlined in paragraphs 94 and 95 of the report, he would be happy to learn what steps were being taken to assist all national minorities and ethnic groups and pointed out that, in the following paragraphs of the report, very little was said about measures to promote an understanding of the Roma or to foster their language, culture or traditions, nor was there any mention of their history and culture being included in the studies of the Interethnic Research Institute of the Academy of Sciences of the Republic of Moldova.

22. He requested additional information on the role played by NGOs in promoting racial harmony and understanding and on the manner in which the Centre for Human Rights was addressing human rights issues related to racism. The Declaration and Programme of Action issued at the end of the World Conference against Racism, Racial Discrimination, Xenophobia

and Related Intolerance had envisaged a greater role for human rights institutions and so the Committee was curious to know what was being done to enhance the part played by the Centre and whether it would be involved in the preparation of reports to bodies monitoring the implementation of human rights conventions.

23. Mr. VALENCIA RODRIGUEZ requested a description of the main activities of the institutions listed in paragraph 1 of Moldova's report. The Committee would also like to know if the revision of the Constitution and the various codes mentioned in paragraph 13 had contributed in any way towards stamping out racial discrimination and discriminatory practices. How did the action and programmes enumerated in paragraph 28 further the achievement of the objectives described in paragraphs 16 and 17? He asked for further details of the legal provisions which implemented the articles of the Constitution on the prevention of discriminatory practices. He concluded from paragraphs 34 et seq. of the report and from the tenor of articles 71 and 38 of the Penal Code that Moldova was largely complying with the requirements of article 4 (a) of the Convention and with the principle embodied in article 4 (b).

24. Turning to the legal norms and the functions of some institutions which had a bearing on the implementation of article 5 of the Convention, he enquired whether any complaints of racial discrimination in employment had ever been filed and asked for confirmation that industrial health standards also applied to national minorities and foreign workers.

25. The Committee welcomed the news that it was possible to choose the language of education and training and was pleased that the State guaranteed the right to free education. It noted that educational goals encompassed the inculcation of racial tolerance and respect for the rights and freedoms of all persons and that in regions inhabited by concentrated populations of ethnic minorities there were plans to include the teaching of the native language in the curriculum. While there was therefore no doubt that Moldova was striving to combat racial discrimination, had its efforts produced the desired results? The fact that about 50 per cent of periodicals in Moldova were published in minority languages was, however, evidence of the State protection enjoyed by minority groups.

26. The state of affairs in Transnistria was extremely worrying and it was regrettable that no acceptable solution was in sight. While the Committee realized that political considerations were probably part of the problem, it wished to know what steps were being taken by the Republic of Moldova to remedy the situation.

27. Mr. SICILIANOS said that he applauded the introduction of non-discriminatory clauses in several laws, but deplored the fact that, despite the great effort made by Moldova to carry out legislative reforms, the report mentioned few instances of any new practices reflecting those changes. For that reason, he wondered whether article 71 of the Penal Code was applied in practice and whether there had been any court cases relying on that provision. Was prosecution automatic or did a complaint have to be lodged? Similarly, since article 53 of the Constitution was of great relevance to article 6 of the Convention, it would be useful to have some data about any legal practice based on that provision and to know whether an implementing law had been

enacted. He also requested information about any case law resting on article 38 of the Penal Code. In addition, he would be pleased to receive details of the law on education and the law on languages and in particular to learn more about the education offered to persons belonging to minorities.

28. Mr. de GOUTTES said that, in his opinion, Moldova's manifest determination to secure the peaceful coexistence of many ethnic groups and respect for their cultural identity through educational measures was a positive aspect. He also greatly approved of the major role given to non-governmental organizations in the field of inter-ethnic cooperation.

29. On the other hand, he was saddened by the fact that, despite the best efforts of the Organization for Security and Co-operation in Europe and the Council of Europe, it had proved impossible to negotiate a settlement of the situation in Transnistria or to solve the dispute between the Orthodox Churches of Moldova and Bessarabia.

30. He was not sure that the provisions of the Penal Code and the Press Law, which were meant to prevent racial discrimination, actually satisfied all the requirements of article 4 of the Convention. He regretted that the report failed to mention any cases in which those texts had been applied and he echoed the request made by Mr. Sicilianos for more information about any complaints filed or sentences passed on the basis of those provisions, because such judicial decisions would indicate compliance with article 6 of the Convention.

31. He likewise asked the delegation to provide examples of the application in practice of texts banning parties formed by aliens or prohibiting racial defamation or discrimination in employment on grounds of race. He further invited the delegation to comment on a report from the European Roma Rights Centre that the Roma had been subjected to racial violence and not only to segregation in education and housing, but also to discriminatory treatment by the courts.

32. He enquired what steps had been taken to heighten awareness of human rights and the need for racial tolerance among law enforcement officials, to combat xenophobia among politicians and the media and to circulate the Convention and the Committee's recommendations.

33. Lastly, he would like to know if Moldova could possibly contemplate making the declaration under article 14 of the Convention, as it had already accepted the procedure for submitting individual petitions to the European Court of Human Rights.

34. Mr. HERNDL commended Moldova for quoting its legal provisions in extenso, but drew attention to the paucity of statistics and details of specific cases in which the provisions had been applied.

35. He hoped that the next report would explain the exact procedure for acquiring Moldovan nationality and would give a full account of the current law on nationality. In that context, he wished to know why a decision had been taken to deprive a Moldovan of his nationality by a Presidential Decree which was not open to appeal.

36. On the subject of paragraph 88 of the report, he asked for a definition of "monolingualism" and why the Government was giving it priority. Moreover, in his opinion, the contents of that paragraph were inconsistent with the statistics supplied in paragraphs 91, 104 and 109.

37. Turning to the implementation of article 4 of the Convention, he was pleased to note the introduction of far-reaching new provisions in articles 71 and 38 of the Penal Code, which punished racial discrimination, and he considered that sanctions should likewise be laid down for amoral advertising, since it had been banned in the Law on Advertising.

38. He thought that paragraph 39 of the report might give rise to misunderstandings, as it did not make it clear whether the equality to which it referred signified that aliens and stateless persons were equal with Moldovan citizens or whether it meant that while aliens and stateless persons had to receive the same treatment, it could differ from that given to Moldovan nationals. In conclusion, he pointed out that paragraphs 56 and 57 were silent with regard to the acquisition of property and he therefore asked whether there were any limitations to that right. Were criteria such as nationality, gender or religion of any relevance?

39. Mr. KJAERUM said that while he acknowledged that the law reform and the setting up of new institutions in Moldova represented progress, he, too, regretted that the report had said so little about the implementation of the new legal provisions.

40. He asked the delegation if Moldova had ever thought of drawing up a national action plan in line with paragraph 191 of the Programme of Action adopted at the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance. Secondly, he wished to know what headway had been made with the human rights training of law enforcement personnel. What subjects were on the curriculum and what practical instruction was offered?

41. Mr. BOSSUYT said that Moldova was clearly a multicultural society; he therefore welcomed the fact that motives of national, racial or religious hatred or enmity were considered aggravating circumstances with respect to an offence and that associations which stirred up national, racial or religious differences could be dissolved by law. Nonetheless he expressed concern about the ban on the organization of parties on the basis of religious criteria (para. 66) and its compatibility with the right to freedom of association. Could such organizations really represent a threat to democracy?

42. With respect to education, he understood that the official language was Moldovan. The report also used the terms Romanian (Moldovan) and Moldovan (Romanian). Was there any real difference between them? Positive factors emerging from the report included the Government's efforts to teach the majority language without the forced assimilation of those belonging to minority groups, as well as Sunday schools for teaching the languages of the smaller ethnic minorities. Referring to the table providing a breakdown of schools and students according to language (para. 104), he sought an explanation for the considerable decrease in the number of students being taught in Ukrainian between 1995 and 1998 on the one hand, and the sharp rise in those being taught in German between 1998 and the year 2000 on the other. In conclusion, he expressed concern about the situation in the self-proclaimed independent Republic of Transnistria and enquired what measures were being adopted to deal with it.

43. Mr. LINDGREN ALVES said that the overriding impression he gathered from the report was of a Government that was striving to forge one national identity without destroying other ones, which was fully in line with the provisions of the Convention. In view of the Country Rapporteur's remarks about the economic problems in the State party, as well as his own concern regarding new economic policies which had gained ground in the last decade, he questioned whether the State party was truly in a position to guarantee the economic, social and cultural rights listed in paragraphs 67 to 75 of the report.

44. Mr. YUTZIS observed that, faced with great cultural and ethnic diversity, the Moldovan authorities were making considerable efforts to enable different minorities to preserve their cultural identity without introducing divisions in society. Referring to paragraph 91 of the report, he sought clarification regarding the recent trend among ethnic Russian children to attend Moldovan language schools and the increase in the number of Ukrainian, Gagauz and Bulgarian language schools on the other. What were the underlying social and cultural reasons? Was it a spontaneous phenomenon or was it perhaps due to internal pressures? He stressed how important it was for the Committee to receive information on the practical implementation of the Convention in order to be in a position to assess to what extent the rights enshrined therein were upheld in the State party. He hoped that the delegation would furnish more information along those lines in its next periodic report. All things considered, there was much to be praised in Moldova's initial report, particularly in the sphere of culture.

45. The CHAIRMAN, speaking as a member of the Committee, said that in accordance with international law a State could oblige persons residing on its territory to learn an official language; however, it could not oblige them to learn a minority language. The question of whether the language both he and the delegation spoke should be referred to as Romanian (of Latin origin) or Moldovan (of Slavic origin) was academic. What was important was that it should not become a political issue leading to discrimination against minority groups or infringements of their basic rights. From the report it was clear that the Moldovan Republic had the necessary legislative and institutional guarantees to protect the use of minority languages. However the language issue should not be politicized to such an extent that the dominant culture in a given area was prevented from preserving its own identity, language and culture, as seemed to be the case in the self-proclaimed independent Republic of Transnistria.

46. Mr. SLONOVSCHI (Moldova), responding to questions and comments on the language issue, said he would prefer to deal solely with the legal aspects of the issue, leaving aside the political aspects for the time being.

47. The delegation of Moldova withdrew.

Review of the implementation of the Convention in States parties whose reports are excessively overdue

Papua New Guinea

48. Mr. VALENCIA RODRIGUEZ (Country Rapporteur) said that the implementation of the Convention in Papua New Guinea had been a matter of some concern to the Committee since 1993, as was borne out by its relevant decisions. The State party had submitted its initial report

in 1984, and since then, despite the Committee's numerous requests and reminders, no further report had been received. Thus the Committee's queries concerning the initial report remained unanswered, including on Papua New Guinea's reservation with respect to article 4 of the Convention, deemed incompatible with its Constitution.

49. It was well known that persons of Indonesian ethnic origin were the victims of discrimination in Papua New Guinea. Over the years the Committee had become increasingly concerned about the situation on the island of Bougainville, whose population was mainly Indonesian and which ran one of the largest copper mines in the world. In 1990 Bougainville had proclaimed its independence, which had led to a lengthy armed conflict between the Bougainville Revolutionary Army and Papua New Guinea's armed forces, during which both parties had committed serious human rights violations. The Committee, like the Commission on Human Rights, had on countless occasions requested the Government of Papua New Guinea to take steps to bring an end to ethnically motivated human rights violations.

50. According to Amnesty International's 1999 Annual Report and the Europa World Yearbook 2002, considerable progress had been made in recent years towards resolving the conflict, following the signing of the Lincoln Agreement by all parties concerned in New Zealand in January 1998. That peace agreement had provided for an end to hostilities and the gradual restoration of civil and political rights with a view to the holding of democratic elections for a provincial government. The United Nations Security Council had sanctioned the peace agreement and a United Nations office had been established in Bougainville to monitor the situation. However, despite the withdrawal of Papua New Guinea troops from the island and the re-establishment of national and provincial courts, the Papua New Guinea parliament had thus far failed to adopt the legislation required for the holding of provincial elections. Nor had a national human rights commission been established, as promised by the State party's Government in 1997. That was the latest information available, positive perhaps but no substitute for the information which should be provided by the State party.

51. In conclusion, he suggested that the Committee should reiterate the statements contained in its decisions concerning Papua New Guinea. It should also request the State party to submit a full, up-to-date report, bearing in mind that nine periodic reports were overdue. The reports should contain detailed information on the situation in Bougainville, as well as replies to the Committee's queries in connection with the initial report, relating inter alia to the demographic composition and social, economic and cultural rights of different ethnic groups and the alleged discrimination practices against some of them. The Committee should recommend that the State party withdraw its reservation regarding the Convention and avail itself of the technical assistance of the advisory services and technical assistance programme of the Office of the High Commissioner for Human Rights in preparing its report. It should be made clear that the Committee would continue to consider implementation of the Convention in Papua New Guinea under its review procedure.

52. Mr. de GOUTTES thanked the Country Rapporteur for shedding some light on the situation in Papua New Guinea. However, what his report revealed above all was the limitations

of the Committee's review procedure. It was intended to put State parties under additional pressure to comply with their reporting obligations, but plainly in the case of Papua New Guinea it had failed miserably. He nevertheless supported Mr. Valencia Rodriguez' various proposals, for what else could the Committee do in the circumstances?

53. Mr. YUTZIS suggested that the Committee might wish to consider a completely different approach. The World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance had highlighted the importance of NGOs and local human rights bodies in its follow-up activities. Perhaps the Committee should request such bodies to provide information regarding the situation in States parties whose reports were excessively overdue, and where necessary consider the adoption of early warning measures. The latter would of course no longer be necessary in the case of Papua New Guinea, as the situation had improved considerably of late, although many problems remained and the State party was duty-bound to account for them. However, instead of merely repeating its standard procedures, such as letters to the permanent missions, which had failed to obtain results thus far, perhaps the Committee should approach the State party through different channels.

54. The CHAIRMAN, speaking as a member of the Committee, harboured some doubts about Mr. Yutzis' proposal, which departed somewhat from the provisions of the Convention, although it nonetheless warranted discussion. Another possibility would be for the open-ended working group dealing with the Committee's working methods to draw up a list of States parties whose reports were excessively overdue and bring the matter to the attention of the United Nations Secretary-General through an appropriate decision.

55. Mr. ABOUL-NASR said he could not endorse Mr. Yutzis' proposal, since it was not compatible with the provisions of the Convention. Moreover, there was nothing new in Mr. Diaconu's proposal, which to his recollection had been discussed at meetings of the Chairpersons of Treaty Bodies. The Committee should therefore continue bringing the matter of non-reporting States parties to the attention of the United Nations General Assembly in its annual reports. Another possibility might be to bring the matter to the attention of other States parties, who might put pressure on non-reporting States to withdraw from the Convention.

56. Mr. TANG Chengyuan said the Committee had two further options. During consideration of its annual report at the United Nations General Assembly, it could request the Chairman of the Third Committee or President of the United Nations General Assembly to appeal to the States parties concerned to submit their overdue reports as soon as possible. Alternatively, the Chairman of the Committee could contact the permanent missions of the States parties concerned in Geneva, where possible, or in New York during his annual visit to the United Nations General Assembly, if the countries in question were not represented in Geneva.

57. Mr. KJAERUM supported the Chairman's proposal for the open-ended working group to look into the matter and to ascertain why the different States parties concerned had consistently failed to comply with their reporting obligations. Thereafter procedures on how to deal with the problem could be discussed.

58. Mr. LINDGREN ALVES endorsed Mr. Tang Chengyuan's proposal for the Chairman of the Committee to approach representatives of the permanent missions.

59. Mr. RESHETOV said that he endorsed Mr. Kjaerum's proposal. States failed to submit their reports for a variety of reasons. Some States were willing to prepare a report provided that the United Nations Office detached a staff member to assist them. But seriously overdue reports constituted a breach of international legal obligations like any other. He therefore suggested establishing a working group to devise measures to provide small States with technical assistance in submitting their report and bringing the list of seriously overdue States to the attention of the General Assembly. What was the point of holding a major conference like the one in Durban, if States which had the resources did not submit a report for 10 years or more?

60. Mr. HERNDL thought that the Committee should solicit the assistance of the Secretary-General or the High Commissioner for Human Rights and should also approach the permanent representatives and even the foreign ministers of overdue States at the General Assembly and ask why they had not met their reporting obligations.

61. Mr. VALENCIA RODRIGUEZ (Country Rapporteur) said that it would be more appropriate for the Committee to pursue the discussion when its working group on organizational matters met on the following Wednesday at 2.30 p.m.

Draft concluding observations on the initial report of Lithuania (CERD/C/60/Misc.24/Rev.3)

62. The CHAIRMAN invited the members of the Committee to consider the draft concluding observations on the initial report of Lithuania.

Paragraphs 1 to 5

63. Paragraphs 1 to 5 were adopted.

Paragraph 6

64. Mr. ABOUL-NASR said that the reference to the declaration under article 14 of the Convention seemed to depart from the formulation usually employed in such cases.

65. Mr. FALL (Country Rapporteur) said that there was indeed a slight difference, because the Committee usually recommended that States which had not yet made the declaration under article 14 should do so. In the case in hand, however, Lithuania had said that it was prepared to make the declaration, and the Committee had therefore considered that to be a positive development.

66. Mr. HERNDL suggested inserting the following sentence: "The Committee expresses the hope that this declaration is forthcoming".

67. Mr. FALL (Country Rapporteur) said that he was reluctant to insert such a sentence, because the Committee was already welcoming the announcement of Lithuania's intention to consider making the declaration. That should be sufficient.

68. Paragraph 6 was adopted unchanged.

Paragraph 7

69. Paragraph 7 was adopted.

Paragraph 8

70. Mr. ABOUL-NASR wondered whether the words "in a first reading" were necessary. The Committee did not know yet what would happen in later readings.

71. Mr. FALL (Country Rapporteur) said that if the amendment had already been adopted in a first reading, that was a positive step. But he did not object to deleting the phrase.

72. The CHAIRMAN said that the phrase could not be deleted, because that would mean that the amendment had already been adopted.

73. Mr. PILLAI proposed deleting the reference to a first reading and beginning the paragraph by welcoming the initiative to amend the Constitution.

74. Mr. FALL (Country Rapporteur) suggested inserting a reference to the "adoption prochaine" ("forthcoming adoption") of the amendment and deleting "in a first reading". The Committee could then enquire, during the consideration of the next report, whether the amendment had in fact been adopted.

75. Mr. THORNBERRY proposed the following wording: "The Committee welcomes the initiative taken by the Parliament (Seimas) to amend article 119 of the Constitution ...".

76. Mr. FALL (Country Rapporteur) said that he disagreed with Mr. Thornberry's proposal, because if the initiative was taken by the Parliament, it might also mean that the amendment had been adopted by the Parliament. He could agree to the proposal if the words "pour l'adoption prochaine d'un amendement" ("for the forthcoming adoption of an amendment") were inserted.

77. Paragraph 8, as orally amended, was adopted.

Paragraph 9

78. Paragraph 9 was adopted.

Paragraph 10

79. Mr. ABOUL-NASR asked whether the Committee requested every State party to ensure the "rapid and comprehensive integration of the Convention into the national system".

80. Mr. SICILIANOS proposed the following formulation: "The Committee calls for the rapid and comprehensive incorporation of all the provisions of the Convention into the national system", because some of the provisions had already been incorporated, while others had not. He also suggested inserting, in the second sentence, the words "some of the provisions of" between "implement" and "the Convention" so as to be consistent with the last sentence.

81. Mr. RESHETOV said that the Committee had never called upon any other State party to incorporate all the provisions of the Convention. If the Committee intended to make the same request of every State party in the future, he would not object, but it was too much to expect that of a country submitting its initial report.

82. Mr. BOSSUYT said that he endorsed the proposal by Mr. Sicilianos, but proposed replacing the word "incorporation" by "implementation".

83. Mr. THORNBERRY suggested in that case saying "implementation of the Convention by the national legal system".

84. Mr. HERNDL pointed out that the issue was not the implementation of the Convention, but its incorporation into the national legal system.

85. Mr. LINDGREN ALVES was in favour of simply deleting the words "and comprehensive" and retaining the rest of the paragraph as it stood. That would be a way of having the Convention integrated into national legislation.

86. Mr. BOSSUYT said that the Convention was already incorporated into national legislation. He suggested replacing, in the second sentence, the word "implement" by "apply".

87. Mr. FALL (Country Rapporteur) said during consideration of the initial report of Lithuania, the Committee had been aware of a certain contradiction, because the delegation had said that the Convention could be invoked in the courts, but also stated that national law needed amending to be brought into line with the Convention. The Committee had asked the delegation to clarify that point. In the light of the above discussion, he was prepared to accept the proposals by Mr. Sicilianos and Mr. Lindgren Alves.

88. The CHAIRMAN suggested inserting the words "as necessary" at the end of the paragraph: Lithuania should be asked to incorporate those provisions which were not yet directly applicable.

89. Mr. de GOUTTES said that he favoured using the word "incorporation" instead of "integration" in the last sentence. He endorsed the Chairman's suggestion and agreed with Mr. Bossuyt's proposal to replace "implement" by "apply" in the second sentence.

90. Mr. BOSSUYT did not see how the Committee could say, in the second sentence, that the Lithuanian courts could apply the Convention directly and then, in the last sentence, that the

Convention was not yet incorporated. Surely it did not intend to say that Lithuania had incorporated one part of the Convention, but not another. It was the Convention's implementation that might be partial, not its incorporation in national law.

91. Mr. SICILIANOS said that he understood Mr. Bossuyt's concern. Paragraph 37, which must be read together with paragraph 28 of the initial report of Lithuania (CERD/C/369/Add.2), stated, oddly enough, that the main provisions stipulated by the Convention had been consolidated in the Lithuanian legal system much earlier, i.e. prior to its ratification. Needless to say, the reference to "consolidate" was incorrect: the point was that some of the provisions of the Convention had already been reflected in Lithuania's legal system prior to ratification. The delegation had said that national courts could directly implement provisions which were in line with the Convention, but not the Convention as such. Thus, there was no contradiction.

92. Mr. ABOUL-NASR said that paragraph 10 and a number of other paragraphs began with such phrases as "the Committee notes" or "the Committee is concerned", whereas in many cases only certain members had noted or expressed concern. Those sentences should, where appropriate, be reworded to reflect that fact, for example with a formulation such as "concern was expressed" or "it was noted". That would be in keeping with past practice.

93. The CHAIRMAN said that the paragraphs would be changed accordingly.

94. Paragraph 10, as orally amended, was adopted.

Paragraph 11

95. Mr. BOSSUYT said that he disagreed with the phrase "which may exclude from citizenship persons belonging to national minorities". National minorities had citizenship of the country by definition. He proposed replacing the word "national" by "certain".

96. Paragraph 11, as amended orally, was adopted.

Paragraph 12

97. Mr. BOSSUYT thought that the last sentence should be deleted, because its last part suggested that it was above all persons of other ethnic origins who were alcoholics.

98. Mr. TANG Chengyuan said that Mr. Bossuyt's point was well taken.

99. Mr. FALL (Country Rapporteur) said that many members of the Committee had expressed reservations on that point. Perhaps the last part of the sentence should be recast.

100. Mr. SICILIANOS noted that one of the main topics raised at the Durban Conference against Racism had been discrimination against persons with HIV/AIDS. Double discrimination had been the subject of a panel discussion at the Conference. He was therefore in favour of rewording the last sentence, but not deleting it entirely.

101. Mr. de GOUTTES agreed with Mr. Sicilianos, but thought that it would be better simply to delete the last sentence. The essential points were already made in the first two sentences.

102. The CHAIRMAN pointed out that the last sentence concerned a matter that did not fall within the remit of the Convention.

103. Mr. YUTZIS agreed with the proposal to delete the last sentence.

104. The CHAIRMAN said that in recasting the last sentence, it was important to avoid giving the impression that in the Committee's view, some minorities were more likely to contract HIV/AIDS or other infectious diseases than other minorities or the majority population.

The meeting rose at 6 p.m.